AMENDMENTS TO THE DRAWINGS

One replacement sheet of amended FIG. 9a is attached following page 24 of this paper. The Applicant has corrected minor typographical errors in the flow diagram of FIG. 9a. The Applicant submits that no new matter has been introduced by the amendment to FIG. 9a.

REMARKS / ARGUMENTS

The present application includes pending claims 1-36. Independent claims 1, 10, 19, and 28 have been amended. Claims 1-36 are rejected under 35 USC 103(a) as allegedly being unpatentable over Yin et al. (US 5,982,748, hereinafter Yin), further in view of Cheng et al. (6,766,309, hereinafter Cheng).

The Applicant traverses the rejections and respectfully submits that the claims define patentable subject matter.

I. Rejection Under 35 U.S.C. § 103

In order for a *prima facie* case of obviousness to be established, the Manual of Patent Examining Procedure ("MPEP") states the following:

> First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine the teaching. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure.

See MPEP at § 2142, citing *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991) (emphasis added). Further, MPEP § 2143.01 states that "the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art suggests the desirability of the combination," and that "although a prior art

device 'may be capable of being modified to run the way the apparatus is claimed, there must be *a suggestion or motivation in the reference* to do so'" (citing In re Mills, 916 F.2d 680, 16 USPQ 2d 1430 (Fed. Cir. 1990)). Moreover, MPEP § 2143.01 also states that the level of ordinary skill in the art cannot be relied upon to provide the suggestion...," citing Al-Site Corp. v. VSI Int'l Inc., 174 F.3d 1308, 50 USPQ 2d 1161 (Fed. Cir. 1999). Additionally, if a *prima facie* case of obviousness is not established, the Applicant is under no obligation to submit evidence of nonobviousness.

> The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.

See MPEP at § 2142.

I. The Proposed Combination of Yin and Cheng Does Not Render Claims 1-36 Obvious Or Unpatentable

The Applicant turns to the rejection of claims 1-36 by the Examiner under 35 U.S.C. § 103(a) as being unpatentable over Yin in view of Cheng.

A. Rejection of Independent Claims 1, 10, 19 and 28

With regard to the rejection of independent claim 1 under 35 U.S.C. § 103(a), the Applicant submits that the combination of Yin and Cheng does not disclose or suggest at least the limitation of "distributing by said network device, QoS information corresponding to said determined at least a minimum QoS level ... using a second

messaging protocol message, wherein said second messaging protocol message is different from said first messaging protocol message," as recited in the Applicant's claim 1.

> The Examiner states the following in the Final Office Action:
>
> As per claims 1,10,19,28, Yin discloses a method for providing network management in a local area network, the method comprising:
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> . . .
>
> distributing QoS information corresponding to said determined at least a minimum QoS level to one or more of said first switch, said first access point, said second access point and/or said second switch, using a second messaging protocol message (see column 6, lines 27-35, where QoS information (i.e. second protocol message QoS connection request) is sent to a second switch).

See the Final Office Action at pages 2-3. The Examiner relies on FIG. 3 (step 66) and col. 6, lines 27-35 of Yin. FIG. 3 of Yin illustrates an embodiment of a procedure for determining whether to accept or reject a connection request for particular type of service. More specifically, referring to FIGS. 1 and 3 of Yin, the connection admission controller (CAC) 10 of the network node in FIG. 1 receives the connection request 12. In addition, Yin discloses that the connection request 12 already contains the QoS requirements for the specific requested connection. *See* Yin, col. 5, lines 51-53. In step 62 (FIG. 3), Yin makes a determination as to whether or not to accept the connection request 12, **based on the QoS requirements of the requested connection**. More specifically, the CAC 10 determines whether the newly requested connection will receive, at minimum, the QoS requirements requested in the connection request.

At step 66, **Yin accepts the received connection request and then the connection request is passed along to the next mode.** *See id.* at col. 6, lines 23-35. **In other words, the same connection request 12, which is equated by the Examiner to Applicant's "first messaging protocol message", is being passed along to the next node after it has been accepted by the current node. Therefore, Yin does not disclose or suggest that a second messaging protocol message, different from the first messaging protocol message, is distributed from the network device that received the first messaging protocol message.** Cheng does not overcome the above deficiencies of Yin.

The Applicant maintains that the combination of Yin and Cheng does not disclose or suggest at least the limitation of "distributing by said network device, QoS information corresponding to said determined at least a minimum QoS level ... using a second messaging protocol message, wherein said second messaging protocol message is different from said first messaging protocol message," as recited in the Applicant's claim 1.

Furthermore with regard to the rejection of independent claim 1 under 35 U.S.C. § 103(a), the Applicant submits that the combination of Yin and Cheng does not disclose or suggest at least the limitation of "responsive to said first messaging protocol message, determining at least a minimum QoS level for operation of one or more of said first switch, said first access point, a second access point, and/or a second switch," as recited in the Applicant's claim 1.

The Examiner states the following in the Final Office Action:

> As per claims 1,10,19,28, Yin discloses a method for providing network management in a local area network, the method comprising:
>
> . . .
>
> responsive to said first messaging protocol message, determining at least a minimum QoS level for operation of one or more of said first switch, said first access point, a second access point, and/or a second switch (see **column 3, lines 29-35**, where the CAC of node in Fig. 1 receiving the request will determine at least a minimum QoS requirement for the new connection request from first switch and column 5, lines 55-58 further describing a determining of the QoS parameters associated with the requested connection from a first switch);

See the Final Office Action at page 2. As already stated above, in step 62 (FIG. 3), Yin makes a determination as to whether or not to accept the connection request 12, **based on the QoS requirements of the requested connection. More specifically, the CAC 10 determines whether the newly requested connection will receive, at minimum, the QoS requirements already requested in the connection request.** *See* Yin, col. 3, lines 29-35. **In other words, the CAC simply determines whether it can meet the requested QoS. Yin does not disclose that the CAC 10, or any other circuit within the node of FIG. 1, determines a minimum QoS level of operation for the node.** Cheng does not overcome the above deficiencies of Yin.

Therefore, the Applicant maintains that the combination of Yin and Cheng does not disclose or suggest at least the limitation of "responsive to said first messaging protocol message, determining at least a minimum QoS level for operation of one or

more of said first switch, said first access point, a second access point, and/or a second switch," as recited in the Applicant's claim 1.

Consequently, a prima facie case of obviousness under 35 U.S.C. § 103(a) cannot be established in claim 1, and therefore claim 1 should be allowable. The Applicant respectfully requests that the rejection of independent claim 1 under 35 U.S.C. § 103(a) be withdrawn. With regard to the rejection of the independent claims 10, 19 and 28 under 35 U.S.C. § 103(a) as being unpatentable over Yin further in view of Cheng, the Applicant points out that claims 10, 19 and 28 are similar in many respects to independent claim 1, and therefore, claims 10, 19 and 28 are also allowable for the same rationale as stated above with regard to claim 1. The Applicant respectfully requests that the rejection of claims 10, 19 and 28 be also withdrawn.

Furthermore, The Applicant reserves the right to argue additional reasons beyond those set forth herein to support the allowability of the independent claims 1, 10, 19 and 28 should such a need arise.

B. Dependent Claims 2-9, 11-18, 20-27 and 29-36

Based on at least the foregoing, the Applicant believes the rejection of the independent claims 1, 10 and 19 under 35 U.S.C. § 103(a) as being unpatentable over Yin further in view of Cheng has been overcome and should be allowable. Claims 2-9, 11-18, 20-27 and 29-36 depend directly or indirectly from the independent claims 1, 10,

19 and 28, and are, consequently, also respectfully submitted to be allowable and requests that the rejection under 35 U.S.C. § 103(a) be withdrawn.

The Applicant reserves the right to argue additional reasons beyond those set forth herein to support the allowability of dependent claims 2-9, 11-18, 20-27 and 29-36 should such a need arise.

CONCLUSION

Based on at least the foregoing, the Applicant believes that all pending claims 1-36 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a telephone interview, and requests that the Examiner telephone the undersigned Attorney at (312) 775-8176.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

Date: 11-APR-2008

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